



The Law Offices of

PHILLIPS & BORDALLO

A Professional Corporation

410 West O'Brien Drive, Suite 102 Hagåtña, Guam 96910-5044

Tel: (671) 477-ABCD (2223) • Fax: (671) 477-2FAX (2329)

"I Erensia, Lina'la', Espiritu-ta"

FILED
DISTRICT COURT OF GUAM

OCT 30 2007

JEANNE G. QUINATA
Clerk of Court

UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

JULIE BABAUTA SANTOS, individually,
and on behalf of all those similarly situated,

Petitioner,

vs.

FELIX A. CAMACHO, Governor of Guam, ART
ILAGAN, Director of Department of Revenue
and Taxation, LOURDES M. PEREZ, Director
of Department of Administration; and
GOVERNMENT OF GUAM,

Respondents.

Civil Case No. CIV04-00006

**MOTION FOR CONTINUANCE;
MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT THEREOF**

CHARMAINE R. TORRES, et al.,

Plaintiffs

vs.

GOVERNMENT OF GUAM, et al.,

Defendants.

Civil Case No. 04-00038

MARY GRACE SIMPAO, et al.,

Plaintiffs,

vs.

GOVERNMENT OF GUAM,

Defendant

vs.

FELIX P. CAMACHO, Governor of Guam,

Intervenor-Defendant.

Civil Case No. CV04-00049

ORIGINAL

The Petitioner, Julie Babauta Santos, individually and on behalf of all those similarly situated (hereinafter "EIC Class"), through her attorneys of record Phillips and Bordallo, P.C., by Michael F. Phillips, moves the Court pursuant to Local Rule 7.1(h) and General Rule 6.1 for a short continuance of the attorneys fees hearing the Court recently scheduled for November 20, 2007. All parties consent to Petitioner's request. The Objectors will not consent to a continuance of the new court date.

The Petitioner bases her motion on the accompanying Memorandum of Points and Authorities, Declaration of Michael F. Phillips, Exhibit "A" (travel information), the record on file, and on any evidence or arguments presented should the Court order a hearing on this matter.

*** * * *MEMORANDUM OF POINTS AND AUTHORITIES* * * ***

The Court recently moved the hearing date on the motion for attorneys' fees from October 22, 2007, to November 20, 2007. Attorney Michael F. Phillips, counsel for Petitioner Julie Babauta Santos, is scheduled to return from off-island the evening of November 20, 2007. Attorney Phillips departs Guam on November 12, 2007 for the National Asian Pacific American Bar Association ("NAPABA") convention which takes place the same week from November 15, 2007 through November 18, 2007 in Las Vegas, Nevada. Plans for Attorney Phillips' attendance at the convention were made on October 7, 2007. At the conclusion of the convention, Attorney Phillips will immediately depart Las Vegas on November 19, 2007 and arrive on Guam the evening of November 20, 2007.

However, on October 15, 2007, the Court sua sponte moved the hearing date for attorneys fees to the morning of November 20, 2007. Since then counsel for Petitioner Santos has attempted to request a continuance by way of stipulation between the parties and the Simpao

objectors. However, attorneys for Objectors Simpao et. al. refused to agree to the continuance thus, Attorney Phillips had no choice but to file the motion herein.

Petitioner and counsel request the Court re-set the attorneys fees hearing for a date on or after November 26, 2007 as Petitioner's counsel is scheduled to attend the NAPABA convention from November 15, 2007 through November 18, 2007. Attorney Phillips is scheduled to leave Las Vegas immediately after the conclusion of the convention on November 19, 2007 and will arrive on Guam the evening of November 20, 2007. However, even with Attorney Phillips leaving Nevada on November 19, 2007, with the time difference the earliest that Attorney Phillips would be on Guam is in the evening of November 20, 2007. The hearing is scheduled to begin at 9:30am on November 20, 2007. Based on the foregoing, Petitioner and counsel respectfully request the Court to continue the attorneys fees hearing to November 26, 2007 or soon thereafter.

Local Rule 7.1(h) addresses motion practice and continuances:

(1) Any moving party who does not intend to press the motion or who intends to withdraw before the hearing date, any opposing party who does not intend to oppose the motion, and any party who intends to move for a continuance of the hearing of a motion shall, not later than five (5) working days preceding the oral argument date, notify opposing counsel and the court clerk in writing.

(2) Absent good cause shown, a deadline fixed by these rules and the "Agreement of Hearing Date" will not be extended.

General Rule 6.1 governs continuances:

No continuance shall be granted merely on the stipulation of the parties. If the Court is satisfied that counsel are preparing the case with diligence and additional time is required to comply with these Rules, the parties may move the Court to extend the dates for the obligations imposed under these Rules, upon submission of a timely stipulated motion signed by all counsel setting forth the reasons for the requested continuance. No continuance will be granted unless the stipulation has been lodged before the date upon which the act was to have been completed under this Rule.

“The District Court has considerable latitude in granting or denying continuances.” United States v. Pope, 841 F.2d 954, 956 (9th Cir., 1988) citing United States v. Flynt, 756 F.2d 1352, 1358 (9th Cir. 1985). It is an abuse of discretion for a District Court to deny a request for an extension of time where hardship in complying with the original deadline is explained by the plaintiff and clearly constitutes just cause for awarding the extension. Eldridge v. Block, 832 F.2d 1132, 1136 (9th Cir. 1987).

Counsel for the Petitioner has remained diligent in all matters. The continuance will allow counsel to attend and participate in a previous commitment off-island and still make it back in time for oral arguments. The short continuance will not inconvenience the Court nor will it prejudice any parties. Petitioner's counsel will be able to abide by the other deadlines set by the Court for the hearing on the motion for attorneys' fees.

Petitioner's counsel attempted unsuccessfully to obtain the consent of the attorney representing Objectors Simpao, et al. Attorney Ignacio C. Aguigui, representing Plaintiff Charmaine Torres, Attorney Daniel M. Benjamin representing Felix P. Camacho, Governor of Guam, and Attorney Rawlen M.T. Mantanona representing Respondents Lourdes M. Perez and Artemio R. Ilagan, do not object to the continuance of the hearing to November 26, 2007 or soon thereafter.

For the reasons stated above, the Court should grant Petitioner Julie Babauta Santos'

1 Motion for Continuance and set the hearing on the motion for attorneys' fees to a date and time
2 on or after November 26, 2007.
3

4 Respectfully submitted this 30th day of October, 2007.
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6 **PHILLIPS & BORDALLO, P.C.**
7 **Attorneys for Petitioner**

8 By: 

9  **Michael F. Phillips**
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Fw: PHILLIPS/MIKE(VAC) 12NOV GUMFrom: **Travel Bag, Inc.** (travelbag@guam.net)

Sent: Wed 10/10/07 5:05 AM

To: nadyasi@hotmail.com

TRAVEL BAG, INC.
215-A CHALAN SANTO PAPA
SUITE 107D
AGANA GU 96910
TELEPHONE: 671 472 2653
FAX : 671 472 2735

DATE 10OCTOBER07
AGENT KD/KD BOOKING REF 232DEX

PHILLIPS/MIKE

SERVICE	DATE FROM	TO	DEPART	ARRIVE
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CONTINENTAL AIRLINES	12NOV GUAM	HONOLULU HI	730A	640P
CO 2	MONDAY A.B WON PAT IN	HONOLULU INTL	11NOV	
D BUSINESS		TERMINAL M		
	BREAKFAST	NON STOP		
	RESERVATION CONFIRMED	7:10 DURATION		
	FLIGHT OPERATED BY CONTINENTAL MICRONESIA			
	AIRCRAFT: BOEING 767-200/300			

NORTHWEST AIRLINES	13NOV HONOLULU HI	SAN FRANCIS CA	1050P	556A
NW 222	TUESDAY HONOLULU INTL	INTL	14NOV	
F FIRST	TERMINAL M	TERMINAL 1		
	SNACK	NON STOP		
	RESERVATION CONFIRMED	5:06 DURATION		
	AIRCRAFT: BOEING 757-300			

UNITED AIRLINES	15NOV SAN FRANCIS CA	LAS VEGAS NV	302P	434P
UA 1524	THURSDAY INTL	MCCARRAN INTL		
H ECONOMY	TERMINAL 3	TERMINAL 1		
	NON SMOKING	NON STOP		
	RESERVATION CONFIRMED	1:32 DURATION		
	FLIGHT OPERATED BY UNITED FOR TED			
	AIRCRAFT: AIRBUS INDUSTRIE A318/A319/A320/A321			

UNITED AIRLINES	19NOV LAS VEGAS NV	LOS ANGELES CA	630A	739A
UA 1481	MONDAY MCCARRAN INTL	INTL		

Y ECONOMY TERMINAL 1 TERMINAL 7
NON SMOKING NON STOP
RESERVATION CONFIRMED 1:09 DURATION
FLIGHT OPERATED BY UNITED FOR TED
AIRCRAFT: AIRBUS INDUSTRIE A318/A319/A320/A321

CONTINENTAL AIRLINES 19NOV LOS ANGELES CA HONOLULU HI 900A 1245P
CO 3 MONDAY INTL HONOLULU INTL
Z FIRST TERMINAL 6 TERMINAL M
BREAKFAST NON STOP
RESERVATION CONFIRMED 5:45 DURATION
AIRCRAFT: BOEING 767-400

CONTINENTAL AIRLINES 19NOV HONOLULU HI GUAM 320P 705P
CO 1 MONDAY HONOLULU INTL A.B WON PAT IN 20NOV
Z BUSINESS TERMINAL M
DINNER NON STOP
RESERVATION CONFIRMED 7:45 DURATION
FLIGHT OPERATED BY CONTINENTAL MICRONESIA
AIRCRAFT: BOEING 767-200/300